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10/631,101

07/31/2003

Glen J. Anderson

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GATEWAY, INC.

ATTN: Patent Attorney

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EXAMINER

TECKLU, ISAAC TUKU

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/631,101	Applicant(s) ANDERSON, GLEN J.	
	Examiner ISAAC T. TECKLU	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-19, 21-35 and 37-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19, 21-35 and 37-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Request for Continued Examination filed on 02/07/2008.
2. Claims 4, 20 and 36 have been cancelled.
3. The objection to claims 1, 17 and 33 has been withdrawn.
4. The rejection to claims 2, 18 and 34 under 35 USC 112, second paragraph has been withdrawn.
5. Claims 1- 3, 5-19, 21-35 and 37-48 are pending.

Continued Examination Under 37 CFR 1.114

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/07/2008 has been entered.

Applicant filed Request for Continued Examination with previously submitted arguments. However, the submitted arguments are exact replica of arguments previously addressed in an Advisory Action mailed on 01/07/2007. Examiner called Applicant several times to inform that the previously submitted arguments have been addressed in an Advisory Action mailed but was unsuccessful. Accordingly, Applicant arguments are not persuasive (see

Advisory Action mailed on 01/07/2008). The examiner respectfully maintains ground of rejection over claims 1- 3, 5-19, 21-35 and 37-48.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1- 3, 5-19, 21-35 and 37-48 rejected under 35 U.S.C. 103(a) as being unpatentable over Sakata et al. (US 2003/0033601 A1), hereinafter Sakata in view of Cheng et al. (US 6,763,403 B2), hereinafter Cheng.

As per claim 1 (Currently Amended), Sakata discloses a method for offering alternative software, comprising:

determining an expiration date for software residing on the computer system (e.g. FIG. 2, device 67 “Expiration date checking device” and related text); and

offering the user alternative software to the fee-based software based on the expiration date of the fee-based software (paragraph [0013] "... software is offered to the user by rental or lease agreement..." and paragraph [0014] "... software is replaced with new software ...").

Sakata does not explicitly disclose scanning a computer system of a user to detect fee-based software residing on a said computer system of the user. However Cheng discloses a method to notify users about new software update information, and new software products for which the user has expressed an interest. As illustrated by FIG. 2, analyze 204 analyzes client computer to determine list of installed fee-based software. Therefore it would have been obvious to one skilled in the art at the time of the invention was made to scan a computer system of a user to determine list of installed software as once suggested by Cheng in FIG.2 and related section.

As per claim 2 (Currently Amended), Sakata discloses the method of claim 1, further comprising the step of ~~monitoring the passage of time until the expiration date and~~ transmitting a message to a software vendor at predetermined time intervals prior to the expiration date (paragraph [0169] "... determining effectiveness of an expiration date transmits the current date which is obtained from the date information obtaining ...")

Sakata does not explicitly disclose wherein the software of the user was not authored by the software vendor and is detected by a monitoring program. However Cheng discloses authenticating registered user by the service provider using conventional authentication mechanisms (col. 7:45-50 and FIG. 2, element 203). Therefore it would have been obvious to one skilled in the art at the time of the invention was made to authenticate user to ensure that

only users who are properly authorized by the service provider can obtain updates for software products as once suggested by Cheng (col. 7:45-50).

As per claim 3, Sakata discloses the method of claim 2, further comprising the step of providing the monitoring program on at least one of the computer of the user, a computer network, and a computer of the software vendor (e.g. FIG. 4 and FIG. 6 and related text).

As per claim 5, Sakata discloses the method of claim 1, further comprising, after the offering step, providing the alternative software to the user in response to receiving an affirmative response from the user (paragraph [0099] "... response to a questionnaire which the user has filled out ...").

As per claim 6 (Currently Amended), Sakata discloses the method of claim 1, further comprising, after the offering step, receiving in response to receipt of a negative response from the user ~~and~~ re-notifying the user of the offer for the alternative software at a specified time interval ~~from the time~~ after the receipt of the negative response (in column 8, lines 20-30 "... upon a user filling out the form ...").

As per claim 7, Sakata discloses the method of claim 1, wherein the expiration date is determined by a monitoring program (paragraph [0111]).

As per claim 8, Sakata discloses the method of claim 7, wherein the monitoring program resides on the computer of the user and determines the expiration date by scanning at least one

of: the files corresponding to registration of the software by the user, file types associated with software, and an installation date of software (paragraph [0111] "... start time may also be monitored ...").

As per claim 9, Sakata discloses the method of claim 1, wherein the determining step comprises querying the user on the expiration date of software and the offering step is based on a response to the query (paragraph [0099] "... response to a questionnaire which the user has filled out ...").

As per claim 10 (Currently Amended), Sakata discloses the method of claim 9, further comprising, after the offering step, receiving in response to receipt of a negative response from the user ~~and~~ re notifying the user of the offer for the alternative software at a specified time interval ~~from the time~~ after the receipt of the negative response (in column 8, lines 20-30 "... upon a user filling out the form ...").

As per claim 11, Sakata discloses the method of claim 1, further comprising storing information detected from the software in a database, and customizing alternative software offers based on the information in the database (paragraph [0181] "... necessary software is transferred from the server to the terminal ...").

As per claim 12, Sakata discloses the method of claim 11, wherein the offering step comprises offering at least one of replacement software, complementary software, and

supplementary software (paragraph [0181] “... necessary software is transferred from the server to the terminal ...”).

As per claim 13, Sakata discloses the method of claim 11, further comprising detecting software characteristics selected from the group consisting of type of software, file types associated with the software, expiration date, frequency of use, and date of download or installation (e.g. FIG.8 and related text).

As per claim 14 (Currently Amended), Sakata discloses the method of claim 13, wherein the offer of alternative software is based on the detected software characteristics (e.g. FIG.8 and related text).

As per claim 15, Sakata discloses the method of claim 1, further comprising the steps of:
installing a monitoring program on the computer system of the user (e.g. FIG. 9 and related text); and

receiving notification of the expiration date of software on the computer system (in column 8, lines 20-30 “... upon a user filling out the form ...”).

As per claim 16, this is another method version of the claimed method discussed above (Claims 1 and 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 17, this is the system version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 18, this is the system version of the claimed method discussed above (Claim 2), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 19, this is the system version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 21, this is the system version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 22, this is the system version of the claimed method discussed above (Claim 6), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 23, this is the system version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 24, this is the system version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 25, this is the system version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 26, this is the system version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 27, this is the system version of the claimed method discussed above (Claim 11), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 28, this is the system version of the claimed method discussed above (Claim 12), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 29, this is the system version of the claimed method discussed above (Claim 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 30, this is the system version of the claimed method discussed above (Claim 14), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 31, this is the system version of the claimed method discussed above (Claim 15), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 32, this is system version of the claimed method discussed above (Claims 16), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 33, this is the computer-readable medium version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 34, this is the computer-readable medium version of the claimed method discussed above (Claim 2), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 35, this is the computer-readable medium version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 37, this is the computer-readable medium version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 38, this is the computer-readable medium version of the claimed method discussed above (Claim 6), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 39, this is the computer-readable medium version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 40, this is the computer-readable medium version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 41, this is the computer-readable medium version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 42, this is the computer-readable medium version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 43, this is the computer-readable medium version of the claimed method discussed above (Claim 11), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 44, this is the computer-readable medium version of the claimed method discussed above (Claim 12), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 45, this is the computer-readable medium version of the claimed method discussed above (Claim 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 46, this is the computer-readable medium version of the claimed method discussed above (Claim 14), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 47, this is the computer-readable medium version of the claimed method discussed above (Claim 15), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 48, this is computer-readable medium version of the claimed method discussed above (Claims 16), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAAC T. TECKLU whose telephone number is (571)272-7957.

The examiner can normally be reached on M-TH 9:300A - 8:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Isaac T Tecklu/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192